



Department of Planning, Building and Code Enforcement

STEPHEN M. HAASE, AICP, DIRECTOR

**PUBLIC NOTICE
INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION
CITY OF SAN JOSÉ, CALIFORNIA**

GP03-05-03: GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Medium Low Density Residential (8 Dwelling Units per Acre (DU/AC)) to Public Park/Open Space for property located on a portion of the PG&E easement between Capitol Park and Capitol Expressway on a 3.2-acre site.

California State Law requires the City of San José to conduct environmental review for all pending projects that require a public hearing. Environmental review examines the nature and extent of any potentially significant adverse effects on the environment that could occur if a project is approved and implemented. The Director of Planning, Building & Code Enforcement would require the preparation of an Environmental Impact Report if the review concluded that the proposed project could have a significant unavoidable effect on the environment. The California Environmental Quality Act (CEQA) requires this notice to disclose whether any listed toxic sites are present. The project location **does not** contain a listed toxic site.

Based on an initial study, the Director has concluded that the project described above will not have a significant effect on the environment. We have sent this notice to all owners and occupants of property within 500 feet of the proposed project to inform them of the Director's intent to adopt a Mitigated Negative Declaration for the proposed project on **June 18, 2003**, and to provide an opportunity for public comments on the draft Mitigated Negative Declaration. The public review period for this draft Mitigated Negative Declaration begins on **June 18, 2003** and ends on **July 7, 2003**.

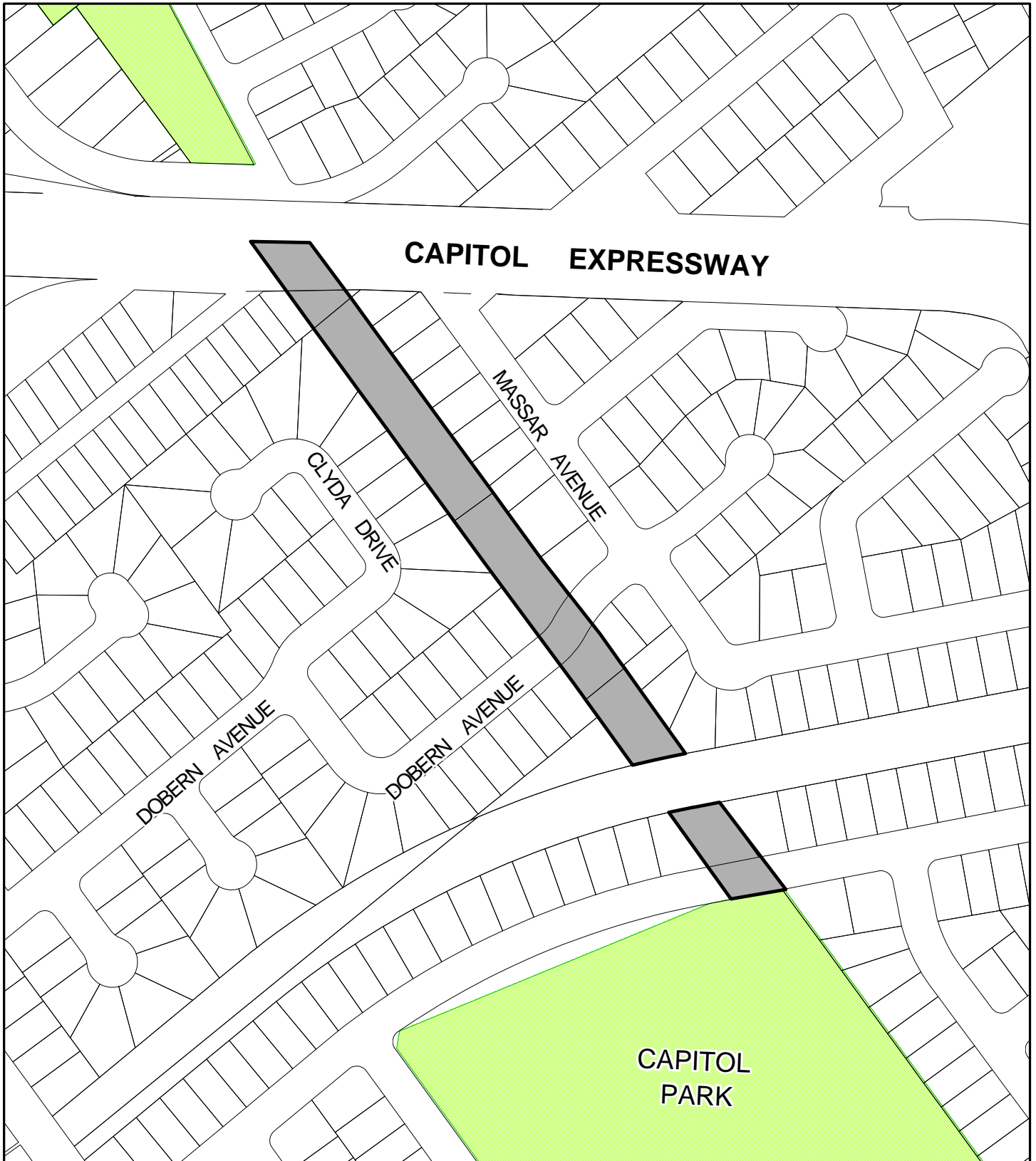
A public hearing on the project described above is tentatively scheduled for **July 28, 2003 at 6:00 p.m.** in the City of San Jose Council Chambers, 801 N. First Street, San Jose, CA 95110. The draft Mitigated Negative Declaration, initial study, and reference documents are available for review under the above file number from 9:00 a.m. to 5:00 p.m. Monday through Friday at the City of San Jose Department of Planning, Building & Code Enforcement, City Hall, 801 N. First Street, Room 400, San Jose, CA 95110. The documents are also available at the Dr. Martin Luther King, Jr. Main Library, 180 W. San Carlos Street, San Jose, CA 95110 and the East SJ Carnegie Branch Library, 1102 E. Santa Clara St., San Jose, CA 95116, and online at www.ci.san-jose.ca.us/planning/sjplan/eir/mnd2003.htm. Adoption of a Negative Declaration does not constitute approval of the proposed project. The decision to approve or deny the project described above will be made separately as required by City Ordinance. For additional information, please call **Bill Scott** at (408) 277-8553.

Stephen M. Haase, AICP
Director, Planning, Building and Code Enforcement

Circulated on: June 17, 2003

Deputy

MNDPN/SBA/2/11/03



**DRAFT
MITIGATED NEGATIVE DECLARATION**

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

NAME OF PROJECT: General Plan Amendment

PROJECT FILE NUMBER: GP03-05-03

PROJECT DESCRIPTION: General Plan amendment to change the Land Use/Transportation Diagram for an approximately 3.2 acre site from Medium Low Density Residential (8.0 DU/AC) to Public Park/open Space.

PROJECT LOCATION & ASSESSORS PARCEL NO.: Portion of PG&E Transmission Line easement extending between Capitol Park and Capitol Expressway APN's 484-38-022; 434-39-001; 003, 109, 110, 484-44-007 & 484-45-079.

COUNCIL DISTRICT: 5

NAME OF APPLICANT: City of San Jose

MAILING ADDRESS AND PHONE NO. OF APPLICANT CONTACT PERSON: City of San Jose, Planning, Building & Code Enforcement, Attention: Bill Scott, Project Manager, 801 N. First St. Rm. 400; San Jose, CA 95110-1285 (408) 277-8553.

FINDING

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

1. Urban Conservation Policy #2: The City should encourage new development which enhances the desirable qualities of the community and existing neighborhoods.

2. Urban Design Policy #1: The City should continue to apply strong architectural and site design controls on all types of development for the protection and development of neighborhood character.
3. Riparian Corridor and Upland Wetlands Policy #4: New development should be designed to protect adjacent riparian corridors from encroachment of lighting, exotic landscaping, noise and toxic substances into the riparian zone.
4. Urban Design Policy #17: Development adjacent to creekside areas should incorporate compatible design and landscaping including plant species which are native to the area or area compatible with native species.
5. The project will conform to the City of San Jose's National Pollutant Discharge Elimination System (NPDES) permit to reduce impacts on storm water quality from construction and post construction.
6. Riparian Corridors and Upland Wetlands Policy #1: Creeks and natural riparian corridors and upland wetlands should be preserved whenever possible.
7. Riparian Corridors and Upland Wetlands Policy #2: New public and private development adjacent to riparian corridors should be consistent with the provisions of the Riparian Corridor Policy Study.
8. Riparian Corridors and Upland Wetlands Policy #5: When disturbances to riparian corridors and upland wetlands cannot be avoided, appropriate measures should be required to restore, or compensate for damage to, the creeks or riparian corridors.
9. Parks and Recreation Policy #7: The City encourages the Santa Clara Valley Water District, school districts, the Pacific Gas and Electric Company and other public agencies and utilities to provide appropriate recreational uses of their respective rights-of-way.
10. Trails and Pathways Policy #5: The City should promote cooperative and interagency planning of trails and pathways in order to establish and encourage their use for both recreational purposes as well as an alternate transportation system.
11. Historic , Archaeological and Cultural Resources Policy #9: Recognizing that Native American burials may be encountered at unexpected locations, the City should impose a requirement on all development permits and tentative subdivision maps that upon discovery of such burials during construction, development activity will cease until professional archaeological examination and reburial in an appropriate manner is accomplished.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **July 7, 2003**, any person may:

- (1) Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or
- (2) Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND; or

- (3) File a formal written protest of the determination that the project would not have a significant effect on the environment. This formal protest must be filed in the Department of Planning, Building and Code Enforcement, 801 North First Street, San Jose, Room 400 and include a \$50 filing fee. The written protest should make a “fair argument” based on substantial evidence that the project will have one or more significant effects on the environment. If a valid written protest is filed with the Director of Planning, Building & Code Enforcement within the noticed public review period, the Director may (1) adopt the Mitigated Negative Declaration and set a noticed public hearing on the protest before the Planning Commission, (2) require the project applicant to prepare an environmental impact report and refund the filing fee to the protestant, or (3) require the Draft MND to be revised and undergo additional noticed public review, and refund the filing fee to the protestant.

Stephen M. Haase, AICP
Director, Planning, Building and Code Enforcement

Circulated on: June 17, 2003

Deputy

Adopted on: _____

Deputy